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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,230	03/19/2001	Hiroshi Ogawa	Q61200	6907

7590 09/10/2003

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EXAMINER
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THOMPSON, CAMIE S

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 09/10/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/810,230

Applicant(s)

OGAWA ET AL.

Examiner

Camie S Thompson

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Applicant's election of Group I, claims 1-6 and 9-10 drawn to a radiation image conversion panel, without traverse is acknowledged.

#### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6 and 9-10 rejected under 35 U.S.C. 102(b) as being anticipated by Bringley et al., U.S. 5,523,558.

Bringley discloses a radiographic phosphor panel comprising a support and a luminescent layer as per instant claims 1 and 9-10 (see column 3, lines 25-36). Additionally, the reference discloses the use of a stabilizing compound that can be an aryl carboxylic acid as per instant claims 1 and 2 (see column 3, line 25-column 4, line 63). In Examples 1-3 of the Bringley reference, it is disclosed that polyurethane can be used as a resin binder as per instant claims 3-6 (see column 10, lines 30-68). Claims 9 and 10 are product-by-process claims. Even though product-by-process claims are limited and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claims is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art was made by a different process. See MPEP 2113. The radiographic phosphor panel of the Bringley reference is the same as the radiation image conversion panel of the instantly claimed invention. Both Bringley and applicant have a radiation image panel comprising a phosphor layer. The manner in which applicant forms the phosphor layer does not make the panel different from the panel in the Bringley reference.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van de Bergh, U.S. Patent Number 5,905,014 in view of Yanigata et al., U.S. Patent Number 6,262,424.

Van de Bergh discloses a radiation image storage panel comprising a support and a phosphor layer comprising a binder and a phosphor as per instant claim 1 (see abstract). The reference discloses one embodiment as having a dye included in the panel wherein the dye comprises at least one phenyl group that is substituted with one or more carboxylic acid groups as per instant claims 1-2 and 9-10(column 5, lines 40-56). Van de Bergh does not disclose using polyurethane as the binding agent. Yanagita teaches a radiation image conversion panel comprising a support and a phosphor layer that comprises resin and a phosphor (see column 2, lines 28-47). Column 5, lines 23-34 of the Yanagita reference discloses that the use of a resin containing a polar group enhances dispersion homogeneity of the phosphor and therefore leads to enhanced brightness. Yanagita discloses in column 7, lines 24-33 that polyurethane is used as the resin. Therefore, it would have been obvious to one of ordinary skill in the art to use polyurethane in the Van de Bergh reference in order to obtain enhanced brightness of the panel. Claims 9 and 10 are product-by-process claims. Even though product-by-process claims are limited and defined by the process, determination of patentability is based on the product itself. The patentability of a

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product does not depend on its method of production. If the product in the product-by-process claims is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art was made by a different process. See MPEP 2113. The radiation image storage panel of the Van de Bergh and Yanagita references is the same as the instantly claimed radiation image conversion panel. All three panels comprise a phosphor layer. The manner in which applicant forms the phosphor layer does not make the panel different from the cited references.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (703) 305-4488. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia H. Kelly, can be reached at (703) 308-0449. The fax phone numbers for the Group are (703) 872-9310 {before finals} and (703) 872-9311 {after finals}.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

CYNTHIA H. KELLY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700

